

JASON COPLEY,

Plaintiff,

v.

BARRY NICELY,

Defendant.

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No.: 3:11-cv-451
Judge Phillips

In accordance with the accompanying Memorandum, the defendant's motion for summary judgment is **GRANTED** and this action is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust administrative remedies. The court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous.

s/ Thomas W. Phillips
United States District Judge

ENTERED AS A JUDGMENT
s/ Debra C. Poplin
 CLERK OF COURT